

COMPENSATION FOR AMERICAN VICTIMS OF CRIME IN FRANCE

Revisions in French law in the last fifteen years have emphasized victims' rights and allow tourists or legal residents in France to obtain compensation if they have been the victim of a crime during their stay. In order to be eligible for victims' rights and benefits, a non-French citizen must be in *situation régulière* in France. This means the traveler has stayed less than three months, if he or she does not have a visa, or that he or she has appropriate permission and documentation, such as a *carte de séjour*, to reside in France legally. Therefore, victims of crime in France should remember to have their passports stamped as they leave France and should keep their plane tickets, boarding passes, itineraries, etc., to prove that they were legally present in the country when the assault occurred.

The below information may not be applicable to cases of terrorism; victims of terrorism in France should contact *SOS Attentats* and *INAVEM* (contact information provided below) to receive terrorism-specific information and assistance.

The legal process

Under French law, compensation is available to all victims of crime committed on French soil. If the victim is not a French citizen, he or she must be in legal immigration status (see above).

It is the victim's responsibility to report the crime, file a formal complaint, and to file a claim for civil damages (that is, to identify him or herself as the *partie civile* in the case). While it is possible to proceed without the aid of a French lawyer, in all but the simplest cases a lawyer is recommended in order to ensure compliance with the correct procedure.

PARTIE CIVILE: WHAT IT MEANS

Partie civile ("civil party") is the victim's formal attachment to a criminal case. The *partie civile* has privileges such as being informed of developments in the case, being able to contest certain court decisions, being able to present additional evidence in the case, and testifying in court.

Whether or not a complaint proceeds to litigation is decided by the French prosecutor (*procureur*) who reviews the case and decides whether there is sufficient proof to proceed against a suspect. The *procureur* may forward the case to a judge (*juge d'instruction* or examining magistrate) for further investigation and review; may dismiss the case due to insufficient evidence; or may negotiate a settlement.

If the case is forwarded for further investigation, the *juge d'instruction* may then either dismiss the case due to insufficient evidence, or forward it to the appropriate jurisdiction for trial.

To recover damages, French law looks usually to the perpetrator of the crime, if identified, and to the victim's insurance but recognizes that these sources may not always guarantee compensation. A state fund (*Fonds de Garantie*) has therefore been established for victims so that victims receive more complete, timely remuneration.

This state fund provides compensation for both serious and minor crime, but in practice offers very little remuneration in cases other than those involving wrongful death, serious personal injury (causing loss of at least one month of activity or continuous after-effects), or sexual violence.

In these serious cases, appointed commissions (*Commissions d'indemnisation des victimes d'infractions*, or *CIVI*) determine the material and nonmaterial damages (psychological, emotional, loss of potential income, etc.) to be compensated. This financial award may include legal costs as well, including expenses associated with travel to and from France during the legal process.

What to do if you are a victim

1. Report the crime to the police and make a formal complaint.

You must appear in person at the nearest *gendarmerie* or *commissariat* police station. You should make a precise complaint including the nature and details of the infraction, and the offender's name, if known. Include all proof of the crime, including medical certificates, bills, etc.

There are two types of formal complaints: a simple complaint (*plainte simple*), and a complaint with constitution as civil party (*plainte avec constitution de partie civile*). This second type of complaint allows victims to immediately indicate a claim for compensation and a desire to be actively involved in the legal process; however, *partie civile* status may be claimed at any time during the trial.

2. Contact the American Consulate General (contact information provided below).
3. Getting in touch with one or more victims' assistance organizations is a good next step. The Consulate General can assist you with this process. Many such organizations exist in France to help victims of crime, both with victim counseling and with legal advice. Such associations are often not substitutes for legal counsel but can offer general guidance and can recommend attorneys. INAVEM (*Institut National d'Aide Aux Victimes et de Médiation*) is an umbrella organization that can offer assistance and direct a victim to other appropriate associations. Contact information is provided below for INAVEM and for other more specialized victims' assistance organizations.
4. While organizations for victims' assistance can help you to prepare an initial claim file, a lawyer is usually required to present the file and to submit it to the appropriate

government offices. Lawyers' fees are the responsibility of the claimant though they may eventually be taken into account if you receive compensation or through the legal aid system. The American Consulate General has a list of English-speaking lawyers. Hiring a lawyer can minimize bureaucracy and prevent procedural mistakes.

5. Remember to maintain records of all damages, including medical costs, etc.
6. Claim *partie civile* if you did not do so at the same time of making a formal complaint. You can claim *partie civile* at any time during the trial, either by letter, by appearing at court, or your lawyer may do it for you. A sample letter is attached to this package.
7. Have your passport stamped as you leave France and keep plane tickets, boarding passes, itineraries, etc. to prove that you were legally present in the country when the assault occurred.
8. **Depending on the severity and complexity of the crime, it may take several weeks or months before the court processes a case to completion.** For misdemeanor-type cases, however, the *procureur* may negotiate a more immediate settlement between you and the offender. In most cases, a French lawyer representing you may pursue the case while you are abroad though you may be required to be present as a witness during the trial.
9. Claim compensation for damages through *CIVI*, website listed below. Either a lawyer or working through INAVEM (see information below) can facilitate this claim.

Address a registered letter the secretary of the *CIVI*, or drop off a letter to the *CIVI* office.

Include the following information:

- Your full name, date and place of birth, profession, nationality, and address, with a copy of your passport or *carte d'identité*
- Your relationship to the victim if it is not yourself, with a copy of proof
- The date, place, and circumstances of the crime, with copies of police reports, etc.
- The trial information, along with a copy of the judgment, if any
- An explained list of all incurred costs and damages, lost wages, damages both material and emotional/psychological, with detailed documentation including medical bills and reports, etc.
- A report of compensation you have received or will receive from insurance, the offender, and other sources
- Your actual resources, including documentation indicating your salary and other sources of revenue
- Your bank account number and information

Contact information and victims' resources

American Consulate General in Marseille: Provides assistance to American citizens. *Place Varian Fry, 13006 Marseille. Phone: 01-43-12-47-54 / Fax: 04-91-55-56-95*

INAVEM (Institut national d'aide aux victimes et de médiation): Umbrella organization for victims' services. English speaking counselors on staff. Legal and counseling assistance and referrals available. You will find in the link below a listing of the different associations specialized in crime assistance per district (Département)
http://www.inavem.org/index.php?option=com_ctassociations&task=listeassociations#dpt841

CIVI website: <http://www.fondsdegarantie.fr/>

In Marseille: AVAD (Association d'Aide aux Victimes d'Actes de Délinquance) 7, rue de la République 13002 Marseille. Phone 04-96-11-68-80

See also: www.nacvcb.org, The National Association of Crime Victim Compensation Boards; <http://www.ovw.usdoj.gov/index.html>, the US Department of Justice Violence Against Women Office; www.try-nova.org and www.vaonline.org.

Date

Monsieur le Procureur de la République
Tribunal de Grande Instance
2/4, boulevard du Palais
75001 Paris

Monsieur le Procureur,

J'ai l'honneur de faire référence à ma plainte contre X (or name of aggressor) (No. _____ CJ _____) déposée le (insert here the date in the order: day/month/year).

Je souhaite renouveler ma plainte et me constituer partie civile.

Je vous prie d'agréer, Monsieur le Procureur, l'expression de mes salutations distinguées.

Signature

Printed name

Full permanent address